

October 8, 2022

VIA ECF

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Thomas Barrack, et al., 1:21-cr-371 (BMC) (S-1)

Dear Judge Cogan:

We respectfully submit this letter requesting that the Court order the Government to comply with the Court's instruction given yesterday. As Your Honor will recall, the Court instructed the Government:

THE COURT: Can you give him the witnesses for Tuesday and Wednesday?
MR. NITZE: Could we have until later -- **yes, is the answer, and we just need a moment to orient ourselves to the week to come.**
THE COURT: So when you tell him at noon tomorrow, he's not going to do anything between now and then? So **you tell him by noon tomorrow who the witnesses for Tuesday and Wednesday are likely to be. Okay? And then be ready on Tuesday to tell him who the witness on Thursday and Friday, Friday afternoon is going to be.**
MR. NITZE: Yes.
We've been doing, just for the -- we've been giving three-days' notice. There is an agreement among the parties. We expect the same when it comes time for a defense case, if any.
THE COURT: Okay.
MR. NITZE: Thank you.
THE COURT: Anything else?
MR. JACKSON: No. Thank you, Judge.

(Tr. 2076-77) (emphasis added). At 2:40pm today, almost three hours after the deadline set by the Court, we had received nothing from the Government. Upon reminding the Government of the Court's instruction, the Government provided us with their anticipation for Tuesday, but AUSA Harris refused to provide any anticipated witnesses for Wednesday, even after defense counsel reminded him of the specific language of the Court's instruction.

We therefore respectfully request that the Court order the Government to comply with Your Honor's direction.

Respectfully Submitted,

WILLKIE FARR & GALLAGHER LLP

/s/ Randall W. Jackson

Michael S. Schachter

Randall W. Jackson

Casey E. Donnelly

Steven J. Ballew

Jordan D. Reisch

O'MELVENY & MYERS LLP

James A. Bowman

Counsel for Defendant

Thomas J. Barrack, Jr.

Cc (via ECF): Hiral D. Mehta

Nathan Daniel Reilly

Ryan C. Harris

Samuel P. Nitze

Craig R. Heeren

Matthew John McKenzie

All defense counsel